

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 05, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

SAMUEL WALKER GRAY,

Defendant.

No. 4:24-CR-06019-MKD

STIPULATED PROTECTIVE
ORDER REGARDING COMPUTER
FORENSIC REVIEW PROCEDURES
FOR CHILD PORNOGRAPHY
CONTRABAND, AND ORDER
GRANTING MOTION TO
EXPEDITE

ECF Nos. 23, 24

Before the Court are the parties' Stipulation Regarding Computer Forensic Review Procedures for Child Pornography Contraband, ECF No. 23, and the United States' related Motion to Expedite, ECF No. 24. Given the nature of the allegations in this case, the parties move to impose forensic review procedures pursuant to 18 U.S.C. § 3509(m). The Court has reviewed the motions and the record and is fully informed. The Court finds good cause to grant the motions.

Accordingly, **IT IS HEREBY ORDERED:**

1 **1.** The parties’ Stipulation Regarding Computer Forensic Review
2 Procedures for Child Pornography Contraband, **ECF No. 23**, and the United
3 States’ Motion to Expedite, **ECF No. 24**, are **GRANTED**.

4 **2.** 18 U.S.C. § 3509(m) applies to this case, and the Court is required to
5 deny defense requests to copy, photograph, duplicate, or otherwise reproduce
6 material constituting child pornography if the government makes the material
7 reasonably available to Defendant and provides an ample opportunity for the
8 defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

9 **3.** In order to comply with 18 U.S.C. § 3509(m), and to allow Defendant
10 the greatest opportunity to prepare an effective defense in preparation for trial in
11 this matter, the government will make a forensic copy or “image” of devices and
12 media containing alleged child pornography contraband at issue in the above-
13 referenced case. The government will make full forensic images reasonably
14 available to Defendant and provide ample opportunity for the defense team to
15 examine them at a government facility in Spokane, Washington. The United States
16 will also work with counsel for Defendant to make reasonably available a working
17 copy of contraband material at the offices of Homeland Security Investigations in
18 Richland, Washington. The parties may readdress the Court if there is a need for
19 additional or after-hours access during the course of litigation in the event trial or
20 motion hearings require additional forensic review.

1 **4.** The defense forensic examination of the full forensic images in
2 Spokane may be conducted in an interview room monitored by closed-circuit
3 television (“CC-TV”), without audio feed. If so, the TV with non-audio feed will
4 ensure the integrity of government agency space and security of its occupants and
5 will not be of sufficient detail or at an angle that would reveal defense strategy.
6 The government and its agents will make no attempt to record any audio from the
7 workstation and no attempt to observe the defense team’s work product or
8 computer monitor screen at any time. The defense expert may review the feed to
9 ensure that defense strategy is not being compromised at any time while
10 conducting the forensic review.

11 **5.** The defense team¹ shall not make, nor permit to be made, any copies
12 of the alleged child pornography contraband pursuant to this Protective Order, nor
13 will they remove any contraband images from the government facility. The
14 defense expert will be allowed to copy any file that is not contraband and compile
15 a report (without contraband images/videos) documenting the examination on
16 removable media at the discretion of the defense expert.

17
18 ¹ For purposes of this Protective Order, the term “defense team” refers solely to
19 Defendant’s counsel of record (“defense counsel”), Defendant’s designated expert
20 (“defense expert”), and a defense investigator.

1 **6.** Any defense counsel and/or designated defense expert will leave at
2 the government facility any equipment, including hard drives, which contain child
3 pornography contraband that is identified during forensic evaluation.

4 **7.** For the purpose of trial, the government will make available a digital
5 copy of any government trial exhibit that contains contraband, which will be kept
6 in the custody and control of the case agent. Upon reasonable notice by the
7 defense, the case agent will also maintain for trial digital copies of any proposed
8 defense exhibit that contains contraband. If the defense team intends to offer,
9 publish, or otherwise utilize any government or defense exhibit contained on the
10 digital copy maintained by the case agent during trial, the case agent shall assist the
11 defense team in publishing or utilizing the exhibit that contains contraband upon
12 reasonable notification by the defense team.

13 **8.** This ORDER shall apply to any attorneys who subsequently become
14 counsel of record, along with their defense teams, without the need to renew or
15 alter the ORDER.

16 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order
17 and provide copies to all counsel.

18 **DATED** July 5, 2024.

19 s/Mary K. Dimke
20 MARY K. DIMKE
 UNITED STATES DISTRICT JUDGE